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April 8, 2015

Dr. Stuart Altman
Chairman
Massachusetts Health Policy Commission
50 Milk Street, 8th Floor
Boston, MA 02109

Dear Chairman Altman and Commissioners:

Thank you for this opportunity to offer comments on the draft regulations relating to the implementation of hospital ICU staffing requirements pursuant to Chapter 155 of the Acts of 2014. As both the former President Pro Tempore of the Senate when this law was approved, and former chairman of the legislature's Health Care Financing Committee who spent the better part of two different decades studying the issue of nurse staffing in the Commonwealth's hospitals, I offer these comments in an effort to correct apparent misunderstandings about the intent of Chapter 155.

First, the inclusion of the phrases "at all times" and "at any time" in the draft regulations far exceeds both the text and intent of Chapter 155. In reality, there are numerous unpredictable intervals during a shift when such a rigid requirement for patient assignments would defeat sound patient care practices. If such an "at all times" requirement were intended, it would have been spelled out in the law. While I understand that HPC staff has offered clarification that the inclusion of these phrases were not intended to imply that the 1:1 or 1:2 patient assignments were mandated at "every moment" on a shift, but rather that they should apply to every shift, I urge the HPC to delete both "at all times" and "at any time" to clarify any confusion or unintended consequences that might arise.

I am also greatly concerned that that the draft regulations seek to impose the 1:1 or 1:2 patient assignment on NICUs, PICUs, and burn units. These units are all licensed separately from adult ICUs and should not be directly impacted by the final regulations. Notably, there is no reference to NICUs, PICUs or burn units contained in Chapter 155 – it is clear they were not an intended target. The law instead cites a regulatory definition for intensive care units (contained in 105 CMR 130.020) that applies solely to certain adult ICUs. Application of the patient assignment standard to NICUs, PICUs, and burn units would run counter to their nationally-endorsed standards of practice and pose significantly troubling consequences to patient care quality and access to services.

Finally, I would urge the HPC to adhere to the clear language of Chapter 155 which stipulates “the patient assignment for the registered nurse shall be 1:1 or 1:2 depending on the stability of the patient as assessed by the acuity tool and by the staff nurses in the unit, including the nurse manager or the nurse manager’s designee when needed to resolve a disagreement”. As noted by others, each word of this law was carefully chosen in its construction. There is no default ratio mandated – the law calls for a patient assignment of 1:1 or 1:2 based on an acuity tool assessment and the input of both nurses and nurse managers.

After years of opposing nurse staffing ratios mandated by law or regulation based on the lack of evidence that such a policy would not improve patient care and, in fact, would undermine the work of the entire patient care team, I reluctantly agreed to the specific language contained in Chapter 155 because it was limited to adult ICU staffing. I did so because of my commitment to patient safety for the most high risk patients. This new law needs several years of further study to determine if it contributes to better care and safety before any expansion is contemplated.

I greatly appreciate your consideration of these comments and I trust that the final HPC regulations on this issue will be in accord with the provisions of Chapter 155.

Sincerely,

A handwritten signature in cursive script that reads "Richard T. Moore". The signature is written in dark ink and is positioned above the printed name.

Richard T. Moore